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| APPLICATION NO.           |                     | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO.        |  |
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| 10/656,263                | /656,263 09/08/2003 |             | Takeshi Fukada       | 07977-256002            | 8816                    |  |
| 26171                     | 7590                | 03/22/2005  |                      | EXAMINER                |                         |  |
| FISH & RI<br>1425 K STR   |                     |             | ERDEM, FAZLI         |                         |                         |  |
| 11TH FLOO                 | •                   | •••         | ART UNIT             | PAPER NUMBER            |                         |  |
| WASHINGTON, DC 20005-3500 |                     |             |                      | 2826                    |                         |  |
|                           |                     |             |                      | DATE MAILED: 03/22/2005 | DATE MAILED: 03/22/2005 |  |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Diffice Action Summary  |   |  | Application No.   | Applicant(s)   |      |  |  |  |  |
|---|---|--|---|--|------|--|--|--|--|
| Fadi Erdem  Pariod for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILLING DATE of THIS COMMUNICATION.  Educations of time may be available under the proximan of 3C FR 1.13(e). In no event, however, may a reply be timely filed after 50t (6) MONTH'S from the maining date of this communication. Proximal test of the communication of 10 FR 1.13(e). In no event, however, may a reply be timely filed after 50t (6) MONTH'S from the maining date of this communication. Proximal test of the communication of 10 FR 1.13(e). In no event, however, may a reply be timely filed after 50t (6) MONTH'S from the maining date of this communication. Proximal test of the molecular place of the communication of the state of the communication of the state of the state of the communication. Proximal test of the maining date of this communication, even if timely filed, may reduce any eventual place test of the state |   | Office Action Summany  | 10/656,263  | FUKADA, TAKESHI  | - Ou |  |  |  |  |
| Preiod for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the proximon of 20°CR 1.13(a). In no event, however, may a reply be timely filled after SIX (8) MONTHS from the mailing date of this communication.  If the period free reply explicite date is the state of this communication.  If the period free reply explicite date is the state of the communication.  Failure to reply within the set or extended princife for reply with the state or possible under the proximation of 20°CR 1.13(a).  Failure to reply within the set or extended princife for reply will be dated to be communication.  Failure to reply within the set or extended princife for reply will be princifed by the Cife called the fill the main reply will be a state that the main reply will be a state to the main reply will be a state that the main reply will be stated as the set of the principle of the communication, even if through (filed, may reduce any seared patient ferm adjustment. See 37 CFR 1.704(b).  Status  1) ☑ Responsive to communication(s) filled on 08 September 2002.  2a) ☐ This action is FINAL.  2b) ☑ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) is/are rejected.  5) ☐ Claim(s) is/are rejected.  5) ☐ Claim(s) is/are rejected.  6) ☐ Claim(s) is/are objected to.  8) ☑ Claim(s) is/are rejected.  7) ☐ Claim(s) is/are rejected.  8) ☐ The proximation of the pro                                     |   | Office Action Summary  | Examiner  | Art Unit   |      |  |  |  |  |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Educations of time may be available under the provisions of 37 CFR 1.38(a). In ne event, however, may a righty be timely filed  Educations of time may be available under the provisions of 37 CFR 1.38(a). In ne event, however, may a righty be timely filed  Educations of time may be available under the provisions of 37 CFR 1.38(a). In ne event, however, may a righty be timely filed  Education of time may be available under the provisions of 37 CFR 1.38(a). In the provision of the above claim(s) in the application.  4) □ Claim(s) 1.60 is/are pending in the application.  4) □ Claim(s) 1.60 is/are pending in the application.  4) □ Claim(s) 1.60 is/are rejected.  5) □ Claim(s) 1.60 is/are rejected.  7) □ Claim(s) 1.60 are subject to restriction and/or election requirement.  Application Papers  9) □ The specification is objected to by the Examiner.  10) □ The drawing(s) filed on 1.61 is/are: along the correction is required if the drawing(s) is objected to. See 37 CFR 1.25(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All b) □ Some * c) □ None of:  1. □ Certified copies of the priority documents have been received in Application No  | _   |  |   |  |      |  |  |  |  |
| THE MAILING DATE OF THIS COMMUNICATION.  Extensions of alme may be available under the provisions of 3 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MOTHS from the mailing date of this communication.  If the period for reply is pecified above, the maximum datularly period will apply and will expire SIX (6) MOTHS from the mailing date of this communication.  If the period for reply is specified above, the maximum datularly period will apply and will expire SIX (6) MOTHS from the mailing date of this communication, even if timely filed, may reduce any searned patent term adjustment. See 37 GFR 1.704(b).  Status  1) Responsive to communication(s) filed on 08 September 2003.  22) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s)60 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s)61 sare pending in the application.  4a) Claim(s)61 sare pending in the application.  6) Claim(s)61 sare objected to.  8) Claim(s)61 sare objected to by the Examiner.  7) Claim(s)61 sare objected to be the Examiner.  10) The specification is objected to by the Examiner.  10) The drawing(s) filed on61 sare: a) accepted or b)0 objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.85(a).  Replacement frawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) All by Some * C   | Period fo                                     |  | ppears on the cover sheet w   | /ith the correspondence address  |      |  |  |  |  |
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| 2a)  This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-60 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.  8) Claim(s) is/are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some of: None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.   | Status  |  |   |  |      |  |  |  |  |
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| <ul> <li>10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</li> <li>11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</li> <li>Priority under 35 U.S.C. § 119</li> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>  | Applicat                                      | ion Papers   |   |  |      |  |  |  |  |
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| <ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>   | 11)□  |  | · ·   | - ' '  | (d). |  |  |  |  |
| <ul> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>  | Priority ι                                    | ınder 35 U.S.C. § 119  |   |  |      |  |  |  |  |
| Attachment(s)   | 12) <u>□</u><br>a)l                           | Acknowledgment is made of a claim for foreig  All b) Some * c) None of:  1. Certified copies of the priority document  2. Certified copies of the priority document  3. Copies of the certified copies of the priority document  application from the International Bure   | nts have been received.  nts have been received in A  iority documents have beer au (PCT Rule 17.2(a)).   | Application No n received in this National Stage   |      |  |  |  |  |
| ······································  | Attachmen                                     | t(s)   |   |  |      |  |  |  |  |
| 1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)   |   |  |   |  |      |  |  |  |  |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date  | 3) 🔲 Inforr                                   | nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08  | 5) ☐ Notice of □  | Informal Patent Application (PTO-152)  |      |  |  |  |  |

## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, 33-40, 49, 50, 55 and 56, drawn to semiconductor device, classified in class 257, subclass 72.
  - II. Claims 17-32, 41-48, 51-54, 57-60, drawn to method of making semiconductor device, classified in class 438, subclass 626.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case in Claim 59 and 60, the buffer layer could have a higher or lower thickness.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fazli Erdem whose telephone number is (571) 272-1914. The examiner can normally be reached on M - F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FE March 16, 2005

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800